

COURT OF APPEALS OF TEXAS, EIGHTH DISTRICT, EL PASO

Robert G. Houle v. Casco Investments, Inc. and Jose Luis Casillas: JLC Ventures

Houle v. Casco Investments · No. 08-17-00189-CV · Decided September 15, 2017

SUMMARY

The Eighth District Court of Appeals of Texas ordered the trial court to conduct a hearing under Texas Rule of Civil Procedure 145 to determine whether the appellant could afford the costs of preparing the appellate record. The order established notice and record-transmission deadlines and suspended appellate deadlines pending resolution of the indigency issue.

CASE DETAILS

COURT	Court of Appeals of Texas, Eighth District, El Paso
WRITING FOR THE COURT	McClure, C.J.; Rodriguez, J.; Palafox, J.
JURISDICTION	Texas
DECIDED	September 15, 2017
DOCKET	08-17-00189-CV
DISPOSITION	remanded
PROCEDURAL POSTURE	Before filing his notice of appeal, Appellant filed a Statement of Inability to Afford Payment of Court Costs or an Appeal Bond. The court reporter challenged the statement, and the court of appeals ordered the trial court to conduct a hearing under Texas Rule of Civil Procedure 145 to determine whether Appellant could afford the appellate record.
PRECEDENTIAL VALUE	Published opinion; precedential status is not otherwise specified in the opinion text.
PARTIES	Robert G. Houle v. Casco Investments, Inc., Jose Luis Casillas: JLC Ventures

TOPICS

appellate procedure

costs

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court was required to conduct a hearing under Texas Rule of Civil Procedure 145 to determine whether Appellant could afford to pay for the appellate record after the court reporter challenged his statement of inability to afford costs.

HOLDINGS

1. When a court reporter challenges a party's statement of inability to afford appellate costs, the trial court must conduct a hearing as contemplated by Texas Rule of Civil Procedure 145 to determine whether the party can afford to pay for the appellate record.

KEY QUOTATIONS

"We conclude that it is necessary for the trial court to conduct a hearing as contemplated by Rule 145."

"It is therefore ordered that the trial court conduct a hearing to determine whether Appellant is able to afford to pay for the appellate record."

FACTUAL BACKGROUND

Before filing his notice of appeal, Robert G. Houle filed a statement asserting that he was unable to afford payment of court costs or an appeal bond. Court reporter Erika Wright filed a sworn challenge to that statement. Because recent amendments to Texas Rule of Civil Procedure 145 and Texas Rule of Appellate Procedure 20.1 changed the procedures for determining a party's ability to pay appellate-record costs, the court of appeals required a trial-court hearing.

PROCEDURAL HISTORY

Robert G. Houle sought to proceed without paying costs for preparation of the appellate record. The court reporter filed a sworn challenge to his statement of inability to afford costs. The court of appeals directed the 210th District Court of El Paso County to conduct the required hearing, issue a compliant order, and forward the order for further appellate proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The trial court must conduct a hearing as soon as practicable, provide Appellant ten days' notice, and issue an order complying with Texas Rule of Civil Procedure 145(f)(6). If the trial court finds that Appellant can afford to pay costs, Appellant may challenge that ruling by motion in the court of appeals under Texas Rule of Appellate Procedure 145(g) within ten days after the order is signed. The trial court must forward its order to the district clerk no later than three days after signing, and the district clerk must prepare and forward a supplemental clerk's

record to the court of appeals no later than five days after the order is filed. Appellate deadlines are suspended pending resolution of the issue.

OPINION

PER CURIAM.

COURT OF APPEALS EIGHTH DISTRICT OF TEXAS EL PASO, TEXAS § ROBERT G. HOULE, § No. 08-17-00189-CV Appellant, § Appeal from the v. § 210th District Court CASCO INVESTMENTS, INC. AND § of El Paso County, Texas JOSE LUIS CASILLAS: JLC VENTURES, § (TC# 2011-2614) Appellees. § ORDER Prior to filing his notice of appeal, Appellant filed in the trial court a Statement of Inability to Afford Payment of Courts Costs or an Appeal Bond.

See TEX.R.CIV.P. 145. The court reporter, Erika Wright, filed a sworn challenge to Appellant's Statement of Inability. With the recent amendments of TEX.R.CIV.P. 145 and TEX.R.APP.P. 20.1, the Texas Supreme Court made significant changes to the procedures for determining whether a party can be required to pay costs in the trial court and on appeal. Rule 145 governs a party's claim that the party is unable to afford costs for preparation of the appellate record.

TEX.R.CIV.P. 145; TEX.R.APP.P. 20.1, cmt. We conclude that it is necessary for the trial court to conduct a hearing as contemplated by Rule 145. It is therefore ordered that the trial court conduct a hearing to determine whether Appellant is able to afford to pay for the appellate record.

The hearing should be conducted as soon as practicable, but Appellant must be given ten days' notice of the hearing. See TEX.R.CIV.P. 145. 1 The trial court must issue an order which complies with TEX.R.CIV.P. 145(f)(6).

In the event that the trial court finds that Appellant can afford to pay costs, Appellant can challenge that ruling by motion filed in this Court pursuant to TEX.R.APP.P. 145(g) no later than ten days after the order is signed.

The trial court shall forward its order to the District Clerk of El Paso County, Texas as soon as practicable after the hearing, but no later than three days after the order is signed. The District Clerk shall prepare and forward a supplemental clerk's record containing the order to this Court as soon as possible, but no later than five days after the trial court files the order.

It will not be necessary for the court reporter to file a record of the hearing unless the trial court rules that Appellant is able to afford to pay for the appellate record. All appellate deadlines shall be suspended pending resolution of these issues.

The Court will issue an order reestablishing the appellate deadlines. IT IS SO ORDERED this 15th day of September, 2017. PER CURIAM Before McClure, C.J., Rodriguez and Palafox, JJ. 2

